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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/554,210

10/24/2005

Denis Paquette

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8260

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EXAMINER

BRADFORD, CANDACE L

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

10/12/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/554,210	PAQUETTE, DENIS	
	Examiner	Art Unit	
	CANDACE L. BRADFORD	3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 5-8, 15 and 17-19 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 5-8, 15 and 17-19 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☒ The drawing(s) filed on 10/24/05 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Continued Examination Under 37 CFR 1.114

The request filed on 4/14/11 for a Request for Continuing Examination (RCE) under 37 CFR 1.114 is acceptable and an RCE has been established. Any previous finality is hereby withdrawn and a new action on the merits follows. Any newly-submitted claims have been added. An action on the RCE follows.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "32" has been used to designate both a set screw in Figure 1 and I-beam in Figures 5-7. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 recites the limitation "said additional accessory" in line 1. There is insufficient antecedent basis for this limitation in the claim.

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Claim 17 recites the limitation "said winch accessory" in line 17. There is insufficient antecedent basis for this limitation in the claim.

Claim 17 recites the limitation "said releasable mounting device" in line 17 and 18. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (5529144) in view of Murray (6053281). Henderson discloses a base rod 20, having a fixed C-shaped or V-shaped attachment bracket 26, attached to said base rod, a threaded locking rod 24, which is essentially parallel to said base rod, and which is operatively connected to a moveable C-shaped or V-shaped attachment bracket 16, and a crank 28, connected to one end of said locking rod, so that turning of the crank results in relative movement of said moveable attachment bracket towards, or away from, said fixed attachment bracket, and thereby grasp or release an I-beam frame member within said C-shaped or V-shaped attachment brackets and thus, temporarily affix said base rod to a frame member, at least one opening 30, in said base rod acting as a first mounting device, as recited in column 5, lines 5-11, for receiving and releaseably attaching a winch assembly, but fails to disclose a winch assembly. Murray

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teaches the utility of a winch assembly comprising a winch 48, a static line, consisting of a safety cable 14, a mounting attachment for attaching said winch accessory to said releasable mounting device, as recited in column 4, lines 30-34. Therefore, it would have been obvious to one of ordinary skill in the art to provide the safety clamp of Henderson with a winch assembly of Murray by mounting the winch assembly to the stanchion post as best seen in Figure 3 to spool and tension cables.

It has been held that the recitation that an element is “for” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138./ Capable of. Specifically the applicant has not positively claimed a winch assembly only that the base rod had an OPENING “for” receiving and attaching a winch assembly.

It would have been further obvious to use the apparatus as advanced above in the method as claimed i.e. separately attaching a first safety restraint device, mounting a winch, using said winch to extend said static line from said winch assembly, connecting said static line from said first safety restraint device to the attachment clip on said second safety restraint device, turning said winch on said first safety restraint device to vary the length of said safety cable, locking said static line in said tighten state, wherein said base rods are attached to said vertical frame members before installation of said vertical frame members into a vertical position, while producing no new or unexpected results.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (5529144) in view of Murray (6053281) in view of Turner et. al. (5307897). Henderson in view of Murray fails to disclose a ratchet locking assembly. Turner et. al. teaches the utility of a ratchet locking assembly 60. The user of a ratchet locking assembly is commonly used in the art to secure and lock at a device into place. Therefore it would have been obvious to one of ordinary skill in the art to replace the winch of Henderson in view of Murray with a ratchet winch lock as taught by Turner et. al. so as to secure and lock at the device into place.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (5529144) in view of Murray (6053281). Murray further discloses a safety restraint device as claimed in Claim 17 wherein said winch comprises 2 or 3 winches 48, 50, as recited in column 4, line 33.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (5529144) in view of Murray (6053281). Henderson discloses a safety restraint device as claimed in Claim 17 additionally comprising a second releasable mounting device, as best seen in Figure 3, for additionally receiving and attaching at least one accessory to said base rod.

It has been held that the recitation that an element is “for” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138./ Capable of.

Claims 8 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson (5529144) in view of Murray (6053281). Henderson discloses a safety restraint device as claimed in Claim 7 wherein said additional accessory is attached to said safety restraint device using said second mounting device and which accessory is selected from the group consisting of a ladder, a light, a sign, a radio, a platform, and a suspended platform, as best seen in Figure 3.

Response to Arguments

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CANDACE L. BRADFORD whose telephone number is (571)272-8967. The examiner can normally be reached on 9am until 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on (571) 272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Candace L. Bradford/
Patent Examiner
Art Unit 3634

/Michael J. Carone/
Supervisory Patent Examiner,
Art Unit 3641

September 27, 2011